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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/807,769	03/24/2004	Raymond J. Haka	GP-303526	4286

7590 12/14/2005

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EXAMINER

LEWIS, TISHA D

ART UNIT PAPER NUMBER

3681

DATE MAILED: 12/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/807,769	Applicant(s) HAKA, RAYMOND J.	
	Examiner TISHA D. LEWIS	Art Unit 3681	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 21 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 6, 10, 12, 14, 15 and 18 is/are rejected.
- 7) ☒ Claim(s) 3-5, 7-9, 11, 13, 16, 17, 19 and 20 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some    \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. ____.  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____.   | 6) <input type="checkbox"/> Other: ____.                                    |

### **DETAILED ACTION**

The following is a response to the request for reconsideration received on September 23, 2005.

#### ***Response to Arguments***

Claims 1-21 are pending in the application.

Applicant's arguments filed September 23, 2005 have been fully considered but they are not persuasive.

-As to applicant's argument that the clutches of Frost are not "input clutches", the input clutches are not defined in the claim as being connected to an input shaft or having some type of input function (i.e., input to what? or input between what?).

-As to applicant's argument that the chains of Baxter aren't connected to a member of the planetary gear set, the connection between the chains and the planetary members in the claim isn't defined as a "direct" or "continuous" connection.

As to applicant's argument that proper motivation to combine has not been provided, the Frost reference disclosed everything (as claimed) except a second chain and the Baxter reference was used to disclose that it is well known in the art to provide at least two chains in a transfer case with the motivation being cited from the Baxter reference as providing more output speeds (column 8, lines 65 to column 9, lines 1-5).

#### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 6, 10, 12, 14, 15 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frost ('612) in view of Baxter, Jr. ('4612). Frost discloses a drive train for a vehicle having front and rear axles (via 26 and 32), a transfer case (60) including first (82), second (84) and third (86) input clutches connected to first (64), second (62 or 68) and third (66) members of a planetary gear set (28) respectively, a transfer chain (90) operatively engageable between the planetary set and the front and rear axles, a four wheel drive clutch (88) selectively connecting the front and rear axles and the four wheel drive clutch with the input clutches provide three speed ratios, four wheel drive, two wheel drive, two wheel drive low, two wheel drive high, four wheel drive low and four wheel drive high.

Frost does not disclose an additional transfer chain.

Baxter, Jr. discloses a transfer case having a first and second transfer chain (80, 82) connected to each other (via 40) and operatively engageable between a planetary gear set (26) and a front and rear axle (via 18 and 20) wherein at least one of the chains (via 84, 90) is connected with a member (38 via 40) of the planetary set and the axles have different axle ratios provide by the different ratios of the chains.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to provide Frost with an additional transfer chain in view of Baxter, Jr. to provide more output speeds (column 8, line 65 to column 9, lines 1-5). Also, as to claims 2 and 6, although the third member of Frost is another sun gear instead of a ring gear or the first member is a sun gear instead of a ring gear, it would be obvious to one

of ordinary skill in the art at the time the invention was made to switch the ring gear to the first or third member in Frost since switching the clutch connections to different gears would not modify the operation of the transfer case, *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

### ***Allowable Subject Matter***

Claim 21 is allowed. Claims 3-5, 7-9, 11, 13, 16, 17, 19 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **FACSIMILE TRANSMISSION**

Submission of your response by facsimile transmission is encouraged. Group 3600's facsimile number is **(703) 872-9326 before final and 703-872-9327 after final**. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general, most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office (Fax No. (703) 000-0000) on \_\_\_\_\_ (Date)

Typed or printed name of person signing this certificate:

\_\_\_\_\_

\_\_\_\_\_  
(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TISHA D. LEWIS whose telephone number is 571-272-7093. The examiner can normally be reached on M-Thur 6 AM TO 2:30 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, CHARLES A. MARMOR can be reached on 571-272-7095. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Tdl  
December 11, 2005

  
TISHA LEWIS  
PRIMARY EXAMINER  
1711 3681 12/11/05